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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,270	09/16/2003	David Michael Edwards	27735-13	1443

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EXAMINER

PEDDER, DENNIS H

ART UNIT PAPER NUMBER

3612

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/663,270	EDWARDS, DAVID MICHAEL	
	<b>Examiner</b>	<b>Art Unit</b>	
	Dennis H. Pedder	3612	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 December 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11 is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-15 and 17 is/are rejected.
- 7) ☒ Claim(s) 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Election/Restrictions*

1. The election is moot at this time.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-10, 12-15, 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doshi in view of Wagner.

Doshi has the object, a vehicle bed, figure 2, an article, a pickup truck, a securement structure at the hole and hole periphery in figure 2 surrounding the fastener or bolt 30 that applicant functionally claims, the securement structure, of plastic material, has a bearing surface at the bolt head and has a creep rate greater than the creep rate of the metallic structure of the mounting structure 32, which has a lesser creep rate, being metal as is common knowledge in this art and verified by the cross sectional views of figure 2. Doshi simply bolts the bed to the frame which would entail the problem of plastic creep discussed by Wagner and prevented by Wagner in using a bearing member 12 with first portion 28 bearing against the plastic structure 40 and second portion at 34, the latter bearing against the analogous mounting structure 44 of metal and with a third portion beneath the bolt head to be biased by the fastener 10. Wagner limits compressive forces by this method as does applicant who discusses the same problem of

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creep. It would have been obvious to one of ordinary skill to provide in Doshi a fastening system as taught by Wagner for the above reason.

As to claim 2, the object is part or element of the loading area of the vehicle.

As to claim 3, the object of Doshi serves as a bed.

As to claim 4, the object is a united part with the loading area. "Integral" is deemed to mean --made of parts that together constitute a whole--Random House College Dictionary, 1980.

As to claim 5, the structure 32 is a cross brace.

As to claims 6 and 7, part 34 is a second planar surface at tip and part 28 comprises a first planar surface at tip 28.

As to claim 8, a metal washer projecting flange is resilient.

As to claims 9 and 10, see figure 1 of Wagner, self-evident.

Applicant may seasonally challenge, for the official record in this application, any statement of judicial notice in timely manner in response to this office action. Please specify the exact statement to be challenged. Applicant is reminded, with respect to the specific challenge put forth, of the duty of disclosure under Rule 56 to disclose material which is pertinent to patentability including claim rejections challenged by applicant.

4. Applicant's remarks of 12/2/2005 are noted to be irrelevant to the above rejection as the brace or mounting structure 32 of Doshi is an intermediate layer, the mounting structure 32 of Doshi is not only operable, but is fastened to the securement structure of the bed as listed above, and Wagner has all three portions of the bearing member as claimed. Prosecution of this application has become excessively drawn out in the examiner's opinion. In order to convince applicant of the error of his reasoning to obtain patent protection that should rightly be in the public domain, further rejections are listed below.

5. Claims 1-7, 9-10, 12-14, 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Genma et al. in view of Wagner.

Genma et al. has the object, a vehicle bed 6, figure 2, an article, a vehicle, a securement structure at the hole and hole periphery in figures 4 and 6 surrounding the fastener that applicant functionally claims, the securement structure, of plastic material, has a bearing surface at the screw head and has a creep rate greater than the creep rate of the metallic structure of the mounting structure 7/15 made of pipe material, which has a lesser creep rate, being metal as is common knowledge in this art and verified by the cross sectional views of figure 10. Genma et al. simply bolts the bed to the frame which would entail the problem of plastic creep discussed by Wagner and prevented by Wagner in using a bearing member 12 with first portion 28 bearing against the plastic structure 40 and second portion at 34, the latter bearing against the analogous mounting structure 44 of metal and with a third portion beneath the bolt head to be biased by the fastener 10. Wagner limits compressive forces by this method as does applicant who discusses the same problem of creep. It would have been obvious to one of ordinary skill to provide in Genma et al. a fastening system as taught by Wagner for the above reason.

As to claim 2, the object is part or element of the body 4/1 of the vehicle.

As to claim 3, the object of Genma et al. serves as a bed as seen at the rear in figure 1.

As to claim 4, the object is a united part with the body. "Integral" is deemed to mean -- made of parts that together constitute a whole--Random House College Dictionary, 1980.

As to claim 5, the structure 12 is a cross brace.

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As to claims 6 and 7, part 34 is a second planar surface at tip and part 28 comprises a first planar surface at tip 28.

As to claim 8, a metal washer projecting flange is resilient.

As to claims 9 and 10, see figure 1 of Wagner, self-evident.

6. Claims 8 and 15 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Doshi or Genma et al. in view of Wagner as applied to claims 1, 12 above, and further in view of Johnson, US 6,059,503.

It would have been obvious to one of ordinary skill to provide in the references above a resilient washer 38 as taught by Johnson in order to avoid damage to the plastic substructure while continuing to compressively load the surface of the securement structures listed above.

#### *Allowable Subject Matter*

7. Claim 16 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claim 11 is allowed.

#### *Response to Arguments*

9. Applicant's arguments with respect to claims above have been considered but are moot in view of the discussion above fully listing all claimed terms and how they are interpreted in view of the references applied.

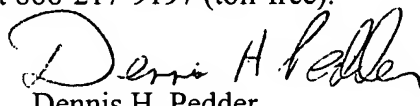
*Conclusion*

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schleiss is cited to show further securement structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (571) 272-6667. The examiner can normally be reached on 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Dennis H. Pedder  
Primary Examiner  
Art Unit 3612

12/10/05

DHP  
12/10/2005